

Gallagher, Michael

From: Rossetto, Matt
Sent: Wednesday, November 06, 2013 3:44 PM
To: Gallagher, Michael
Subject: FW: Draft 3 of out of state brokers

Hi Mike-

I will call you shortly to talk through some of these points...

Matt

Matt Rossetto
Office of Representative Dean Knudson
30th Assembly District
(608) 266-1526


From: Cori M. Lamont [mailto:CoriL@wra.org]
Sent: Wednesday, November 06, 2013 2:42 PM
To: Rossetto, Matt
Cc: Larson, Tom
Subject: RE: Draft 3 of out of state brokers

Matt,

We do have a few comments relating to this draft, please see below.

Please let me know if you have any questions.

Thank you, Cori

- 1.) Page 2, line 17. Strike "by entering into listing agreements or" - as you and I recently discussed we are not going to support a "co-listing" even with the cooperative agreement. Instead we would like standalone language in the statute that clearly prohibits an out-of-state broker from entering into a Wisconsin listing agreement. 
 - a. Suggested language as to how this may be achieved: This section does not allow an out-of-state broker to enter into a listing agreement, the authority to market or advertise in this state real property located in this state for sale, lease or exchange. Signs shall not be placed on real property in this state by an out-of-state broker. An out-of-state broker shall not use a cooperative agreement as authority to sell, lease, rent, exchange or attempt to sell, lease, rent or exchange real property in this state.
- 2.) Page 2, (2) (a). Add the following additional required elements to the cooperative agreement:
 - a. A list of the real estate activities to be conducted by the out-of-state broker.
 - b. A statement that the out-of-state broker agrees to fully comply with the laws of Wisconsin and submit to the regulatory jurisdiction of the department for activities subject to this chapter.
 - c. A statement as to whether the licensed broker will attend all showings of property located in Wisconsin

- 3.) Page 2, line 18 or 19. It should be clear that the cooperative agreement must be entered into prior to the out-of-state broker acts. For example, "only if the out-of-state broker does all of the following prior to acting as a broker:" X
- 4.) Page 3, lines 1 and 3. Upon further reading of this section it would appear that it only applies if the out-of-state broker is a party to a cooperative agreement. It was our intent to have the legislation say that no commission can be paid unless the person has entered into a cooperative agreement.
- 5.) Page 3, line 4. "directly from the licensed broker". Often in transactions the commission is not paid directly from the broker, but rather through a third party, most commonly a title company. It seems that sub (b) says it applies to cooperative agreements and only when the out-of-state broker receives the money directly from the licensed broker. As previously stated, it was the intent to say that no person (which includes licensed brokers, title companies, attorneys, etc. who may be conducting the closing) from paying the commission to the out-of-state broker unless they had entered into a cooperative agreement with the licensed broker. ✓
- 6.) Page 3, sub. (c). does the drafter believe this this also requires the out-of-state broker to follow all Wisconsin laws, and be subject to discipline by the real estate examining board. I know that sub. (5) addresses penalties but wonder if it would be good to also insert language in sub. (c) as well. +
- 7.) Page 4, line 4. The timeframe calculation should take into account that a transaction may not close. Suggestion for alternative language, "for at least 3 years after the date of closing of the transaction or, if the transaction has not been consummated, from the date of entering into the cooperative agreement." ✓
- 8.) Page 5, line 11. I believe we are going to need to extend the timeframe to allow the examining board time to create the rules including the cooperative form. It is my understanding that takes about 18 months to promulgate or revise rules at DSPS and therefore to ensure we have enough time for the board to act the effective date should be January 1, 2015. ✓
- 9.) Miscellaneous. We believe it would be helpful to have a reminder as to what the licensed broker's responsibilities are in the out-of-state transactions. For example, The licensed broker will have the same responsibilities for the transaction that he/she would have for any other transaction conducted through the licensed broker. X

Cori M. Lamont
Director of Regulatory Affairs
Wisconsin REALTORS® Association
4801 Forest Run Road
Madison, WI 53704
tel: 608-241-2047 | fax: 608-241-5168 | www.wra.org
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From: Rossetto, Matt [<mailto:Matt.Rossetto@legis.wisconsin.gov>]
Sent: Monday, November 04, 2013 11:41 AM
To: Cori M. Lamont; Larson, Tom
Subject: Draft 3 of out of state brokers

Attached. Let me know if you're comfortable with the language he worked up.

Matt Rossetto
Office of Representative Dean Knudson
30th Assembly District
(608) 266-1526

Gallagher, Michael

From: Rossetto, Matt
Sent: Thursday, November 07, 2013 10:08 AM
To: Gallagher, Michael
Subject: FW: [GRAYMAIL] RE: Draft 3 of out of state brokers

Let's just go with what they want so we can get an introducible draft.

From: Cori M. Lamont [mailto:CoriL@wra.org]
Sent: Thursday, November 07, 2013 10:00 AM
To: Rossetto, Matt
Subject: Re: [GRAYMAIL] RE: Draft 3 of out of state brokers

Hi Matt,

The only reason we would like it included is because the law doesn't clearly prohibit it today and the out of state people have tried or have successfully listed a Wisconsin property.

Cori M. Lamont
Director of Regulatory Affairs

Wisconsin REALTORS® Association
4801 Forest Run Road Madison, WI 53704
tel: 608-241-2047 | fax: 608-241-5168 | www.wra.org

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On Nov 7, 2013, at 9:50 AM, "Rossetto, Matt" <Matt.Rossetto@legis.wisconsin.gov> wrote:

Hi Cori-

I spoke with the drafting attorney a couple of times this morning and he suggested that if your intent is to only allow out of state brokers to show property, then the language should simply say that, instead of just prohibiting activities. Thoughts?

Matt

From: Cori M. Lamont [mailto:CoriL@wra.org]
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To: Rossetto, Matt
Cc: Larson, Tom
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From: Rossetto, Matt [<mailto:Matt.Rossetto@legis.wisconsin.gov>]
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Attached. Let me know if you're comfortable with the language he worked up.

Matt Rossetto
Office of Representative Dean Knudson
30th Assembly District
(608) 266-1526

Gallagher, Michael

From: Rossetto, Matt
Sent: Friday, November 08, 2013 11:23 AM
To: Gallagher, Michael
Subject: LRB 3217

Hi Mike-

Not sure if Sen. Schultz's office has contacted you yet, but they will be the lead on our out of state brokers proposal, so feel free to draft a Senate companion for them. They'll be introducing the final version of what we work out.

Thanks,

Matt

Matt Rossetto
Office of Representative Dean Knudson
30th Assembly District
(608) 266-1526



In: 11/12 by: Thurs, 11/14

State of Wisconsin

2013 - 2014 LEGISLATURE

THANKS



LRB-3217(P3)

MPG:jld:jf

2013 BILL

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

due Thurs

Insert

D-Note

Rege

✓
1 AN ACT to create 452.01 (5n), 452.01 (5p) and 452.137 of the statutes; relating
2 to: cooperation of Wisconsin licensed real estate brokers with out-of-state real
3 estate brokers, salespersons, and time-share salespersons, requiring the
4 exercise of rule-making authority, and providing a penalty. ✓

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

5 SECTION 1. 452.01 (5n) of the statutes is created to read:
6 452.01 (5n) "Out-of-state broker" means a nonresident who is not licensed
7 under this chapter and who is regularly and lawfully engaged in the real estate
8 brokerage business in another state, a territory or possession of the United States,
9 or a foreign country.

Insert A ✓

1 **SECTION 2.** 452.01 (5p) of the statutes is created to read:

2 452.01 (5p) "Out-of-state salesperson" means a nonresident who is not
3 licensed under this chapter and who is employed by an out-of-state broker.
4 "Out-of-state salesperson" includes a time-share salesperson employed by an
5 out-of-state broker.

6 **SECTION 3.** 452.137 of the statutes is created to read:

7 **452.137 Cooperation with out-of-state brokers and salespersons. (1)**

8 DEFINITIONS. In this section:

9 (a) "Cooperative agreement" means the agreement established by the board
10 under sub. (4).

11 (b) "Licensed broker" means a broker who is licensed under this chapter.

12 (c) "Licensed salesperson" means a salesperson who is licensed under this
13 chapter.

14 (d) "Licensed time-share salesperson" means a time-share salesperson who is
15 licensed under this chapter.

16 (2) **OUT-OF-STATE BROKERS.** (a) *Except as provided in par. (b),* An out-of-state broker may act as a broker in
17 this state, including by entering into listing agreements or accompanying
18 prospective buyers or tenants to a property for sale or rent in this state, only if the
19 out-of-state broker does all of the following:

20 1. Enters into a cooperative agreement with a licensed broker and cooperates
21 with the licensed broker on all real estate transactions subject to the cooperative
22 agreement. ✓

23 2. Submits to the licensed broker evidence that the out-of-state broker is
24 licensed in good standing to engage in real estate brokerage in a jurisdiction other
25 than this state.

(b) An out-of-state broker who is a party to a cooperative agreement with a licensed broker may not accept any fee or commission in connection with a real estate transaction subject to the cooperative agreement unless the out-of-state broker receives the fee or commission directly from the licensed broker and in accordance with any other terms of the cooperative agreement.

(c) An out-of-state broker who is a party to a cooperative agreement with a licensed broker, and any salesperson or time-share salesperson of the out-of-state broker, shall comply with the laws of this state, and the out-of-state broker shall file with the board an irrevocable consent that actions may be commenced against the out-of-state broker in the proper court of any county in this state in which a cause of action arises or the plaintiff resides, by the service of any process or pleading authorized by the laws of this state on the board or any duly authorized employee. The consent shall stipulate and agree that such service is valid and binding as due service upon the out-of-state broker in all courts in this state. The consent shall be duly acknowledged and, if made by a corporation, shall be authenticated by the corporate seal.

(d) A licensed broker who is a party to a cooperative agreement with an out-of-state broker, and any licensed salesperson or licensed time-share salesperson of the licensed broker, may not act under the cooperative agreement on behalf of a licensed broker who is not a party to the cooperative agreement.

(e) An out-of-state broker who is a party to a cooperative agreement with a licensed broker shall deposit with the licensed broker copies of all documents the out-of-state broker receives or generates in connection with any real estate transaction subject to the cooperative agreement, unless the out-of-state broker and licensed broker agree in writing that the out-of-state broker is not required to do so.

Insert 3-5

out-of-state

maintains

1 A licensed broker shall maintain all documents it receives under this paragraph, and
2 all other documents it receives or generates in connection with a real estate
3 transaction subject to the cooperative agreement, for at least 3 years after the date
4 of closing on the transaction; or 3 years after the date the parties execute the cooperative agreement.

5 (3) OUT-OF-STATE SALESPERSONS. An out-of-state salesperson may act as a
6 salesperson or time-share salesperson in this state only if all of the following
7 conditions are met: on which

8 (a) The out-of-state broker who employs the out-of-state salesperson satisfies
9 all of the applicable requirements under sub. (2).

10 (b) The out-of-state salesperson works under the direct supervision of the
11 out-of-state broker.

12 (c) The out-of-state salesperson submits evidence to the licensed broker that
13 the out-of-state salesperson is licensed in good standing or is otherwise authorized
14 to act as a salesperson or time-share salesperson in a jurisdiction other than this
15 state.

16 (d) In any real estate transaction subject to the cooperative agreement, the
17 out-of-state salesperson represents only the out-of-state broker with whom the
18 out-of-state salesperson is employed. who is a party to the cooperative agreement and

19 (4) COOPERATIVE AGREEMENT. (a) The board shall, by rule, establish the form
20 and terms of the cooperative agreement.

21 (b) The cooperative agreement shall do at least all of the following:

22 1. Establish the terms of cooperation between the out-of state broker, any
23 out-of-state salesperson, and the licensed broker.

24 2. (Subject to sub. (2) (b)), establish the terms of the out-of-state broker's
25 compensation.

1

5

8

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12

d-note
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January 1, 2015

2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3217/lins
MPG:jld:rs

1

INSERT A

Under current law, the Real Estate Examining Board (board) licenses real estate brokers in Wisconsin. Generally, no person may engage in real estate practice in the state without a broker's license issued by the board. The board also licenses real estate salespersons and registers time-share salespersons. A real estate salesperson is any person, other than a broker or a time-share salesperson, who is employed by a broker. A time-share salesperson is a person employed by a broker exclusively to sell time shares.

This bill authorizes limited real estate practice in Wisconsin by an out-of-state broker who is not licensed by the board, and for the broker's out-of-state salesperson or time-share salesperson, if the out-of-state broker enters into a cooperative agreement with a broker licensed by the board. Under the bill, the board is required to develop, by rule, the form and content of the cooperative agreement. The cooperative agreement must establish the terms of cooperation between an out-of-state broker and a licensed broker, establish the terms of the out-of-state broker's compensation, and provide that all client funds received in connection with a real estate transaction subject to the cooperative agreement be deposited in a trust account maintained by the licensed broker.

Under the bill, an out-of-state broker may not do any of the following, including as a party to a cooperative agreement:

1. Enter into a listing agreement concerning real estate located in Wisconsin.
2. For commission, money, or other thing of value, promote the sale, exchange, purchase, option, rental, or leasing of real estate in Wisconsin, including by posting signs.
3. For commission, money, or other thing of value, sell, exchange, rent, or lease or attempt to sell, exchange, rent, or lease real estate located in Wisconsin.

Under the bill, a broker licensed by the board who is a party to a cooperative agreement with an out-of-state broker, and any licensed salesperson or time-share salesperson of the licensed broker, may not act under the cooperative agreement on behalf of a broker who is not a party to the cooperative agreement. Additionally, unless the parties agree otherwise, the out-of-state broker must submit all documents it receives, maintains, or generates in connection with a real estate transaction subject to the cooperative agreement to the licensed broker. The licensed broker must keep those documents, and any documents the licensed broker itself receives, maintains, or generates in connection with the real-estate transaction, for at least three years after the date of closing on a transaction, or, if the transaction does not close, three years after the date the parties executed the cooperative agreement. on which

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

↓

For further information see the **state** fiscal estimate, which will be printed as an appendix to this bill.

(END INSERT A)

INSERT 3-5

(b) An out-of-state broker, including an out-of-state broker who is a party to a cooperative agreement, may not do any of the following:✓

1. Enter into a listing agreement concerning real estate located in this state.✓

2. For commission, money, or other thing of value, promote the sale, exchange, purchase, option, rental, or leasing of real estate located in this state, including by posting signs on the property.✓

3. For commission, money, or other thing of value, sell, exchange, rent, or lease or attempt to sell, exchange, rent, or lease real estate located in this state.✓

(END INSERT 3-5)

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

eLRB
13-3217/1dn
MPG:jld:rs

date

Matt Rossetto

This is an introducible draft incorporating the changes we discussed. Once you have reviewed the draft, let me know, and I will get the ~~Senate companion~~ ^{bill} drafted.

Note that the draft prohibits any out-of-state broker, as defined in the draft, from doing any of the following, whether or not the out-of-state broker has entered into a cooperative agreement:

1. Enter into a listing agreement concerning real estate located in this state. ✓
2. For commission, money, or other thing of value, promote the sale, exchange, purchase, option, rental, or leasing of real estate located in this state, including by posting signs on the property. ✓
3. For commission, money, or other thing of value, ^{sell}, exchange, rent, or lease or attempt to sell, exchange, rent, or lease real estate real estate located in this state.

Those restrictions are based on the revised drafting instructions and the definition of "broker" under s. 452.01 (2). ✓ Those restrictions go further than current law insofar as current law allows a person, including any out-of-state broker, to engage in the business of selling or exchanging interests in real estate if a pattern of sales or exchanges is not established. Under current law, "[f]ive sales or exchanges in one year or 10 sales or exchanges in 5 years is presumptive evidence of a pattern of sales or exchanges." See s. 452.01 (2) (b). ✓ The draft would prohibit an out-of-state broker from being compensated for any such sale or exchange of real estate regardless of whether a pattern of sales or exchanges is established. ✓

Under the draft, if an out-of-state broker is a party to a cooperative agreement, the out-of-state broker would presumably not be prohibited from showing real estate under s. 452.01 (2) (bm), ✓ negotiating real estate transactions under s. 452.01 (2) (bm), or doing any of the things listed under s. 452.01 (2) in connection with a transaction involving a business if the transaction does not involve real estate, all subject to the cooperative agreement. Such an out-of-state broker would also not be prohibited from doing any of the things listed under s. 452.01 (2) ✓ concerning time shares, also subject to the cooperative agreement.

Please let me know if any of that is contrary to the intent. As I have mentioned in the past, it would be clearer to specifically reference the definition of "broker" under s.

✓
452.01 (2) in stating what an out-of-state broker may or may not do pursuant to a cooperative agreement. Nevertheless, in the draft, I have tried for the sake of clarity and consistency to incorporate the language of the definition of "broker" as much as possible within the parameters of the drafting instructions.

Please do not hesitate to contact me with questions.

Thank you.

Michael Gallagher
Legislative Attorney
Phone: (608) 267-7511
E-mail: michael.gallagher@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3217/1dn

MPG:jld:rs

November 12, 2013

Matt Rossetto:

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2. For commission, money, or other thing of value, promote the sale, exchange, purchase, option, rental, or leasing of real estate located in this state, including by posting signs on the property.
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Those restrictions are based on the revised drafting instructions and the definition of "broker" under s. 452.01 (2). Those restrictions go further than current law insofar as current law allows a person, including any out-of-state broker, to engage in the business of selling or exchanging interests in real estate if a pattern of sales or exchanges is not established. Under current law, "[f]ive sales or exchanges in one year or 10 sales or exchanges in 5 years is presumptive evidence of a pattern of sales or exchanges." See s. 452.01 (2) (b). The draft would prohibit an out-of-state broker from being compensated for any such sale or exchange of real estate regardless of whether a pattern of sales or exchanges is established.

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Thank you.

Michael Gallagher
Legislative Attorney
Phone: (608) 267-7511
E-mail: michael.gallagher@legis.wisconsin.gov

Gallagher, Michael

From: Rossetto, Matt
Sent: Thursday, November 14, 2013 4:49 PM
To: Gallagher, Michael
Subject: Fwd: [GRAYMAIL] FW: Introdutable out of state brokers draft

Sent from my iPhone

Begin forwarded message:

From: "Cori M. Lamont" <CoriL@wra.org>
Date: November 14, 2013 at 16:40:06 CST
To: "Rossetto, Matt" <Matt.Rossetto@legis.wisconsin.gov>
Subject: RE: [GRAYMAIL] FW: Introdutable out of state brokers draft

No problem. Please see my comments below in red.

Andy yes, I apologize to all for any and all confusion.

Cori M. Lamont
Director of Regulatory Affairs
Wisconsin REALTORS® Association
4801 Forest Run Road
Madison, WI 53704
tel: 608-241-2047 | fax: 608-241-5168 | www.wra.org
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From: Rossetto, Matt [<mailto:Matt.Rossetto@legis.wisconsin.gov>]
Sent: Thursday, November 14, 2013 3:40 PM
To: Cori M. Lamont
Subject: [GRAYMAIL] FW: Introdutable out of state brokers draft

There seems to be some confusion over a couple of your questions... Mind clarifying?

From: Gallagher, Michael
Sent: Thursday, November 14, 2013 1:35 PM
To: Rossetto, Matt
Subject: RE: Introdutable out of state brokers draft

Matt:

1. I agree, the term "nonresident" should not be used. It is cleaner to remove it. ✓

2. I think I now see what the intent behind this aspect of the request is. We want to prohibit an out-of-state broker from showing a rental property except as authorized under a cooperative agreement even though that is not something that would be prohibited under current law, given the rental exception under s. 452.01 (2) (bm). I will make appropriate changes. ✓

3. See number 4 also. I don't understand. Cori's previous e-mail explicitly requested that the draft prohibit an out-of-state broker from marketing or advertising real estate, entering into listing agreements, and selling, etc., real estate, under a cooperative agreement. See point 1) a. in the attached e-mail for ease of reference ("This section does not allow"; "...shall not use a cooperative agreement as authority to..."). I need clarification concerning the intent here. I must be missing something. I am sorry I completely understand why you are confused. I was reacting to the language in front of me rather than trying to improve upon the language. My original suggestion stated that the out-of-state broker does not have the authority to market or advertise in this state real state property located in this state for sale, lease or exchange. The draft addresses property located in this state but does not include that it applies in this state. As a suggestion... beginning on page 4 line 1, "promote in this state the sale, exchange, purchase, option, rental, or leasing of real estate located in this state, including posting signs on the property." I am trying to reiterate that it applies to marketing actions taken in this state and for properties located in this state. I'm not sure this explanation has made it any clearer. ✓

4. The prohibitions requested in 1) a. of the attached e-mail—may not market or sell real estate, etc.—only make sense if the out-of-state broker is prohibited from being paid to do the prohibited things. So, again, I don't understand and need the intent clarified. I think if we take out 3. On page 4 lines 4-5 and address payment of commission separately we meet the intent. ✓

I will see what I can do with the commission language. Note that current law prohibits a person from being paid a commission, etc., to act as a broker in the state without a license (getting paid is part of the definition of "broker"), and the draft authorizes limited real estate practice by an out-of-state broker only subject to the cooperative agreement, which establishes the terms of the out-of-state broker's compensation. So, the out-of-state broker is only allowed to get paid according to the terms of the cooperative agreement. Is it workable to also require every person paying the out-of-state broker to know what the cooperative agreement between the out-of-state broker and the licensed broker requires? I could say, however, that no person may pay the out-of-state broker unless the person knows there is a cooperative agreement in place. Is that the intent? Yes, the intent is to say no person can pay an out-of-state broker a commission, money thing of value, etc. unless there is a cooperative agreement. ✓

5. I'll make the necessary changes. ✓

6. "Broker" is a defined term for all of ch. 452, so there is no need to cite the definition any time the term "broker" is used within the chapter.

Thanks.

Mike

Mike Gallagher

Attorney

Wisconsin Legislative Reference Bureau
(608) 267-7511

From: Rossetto, Matt
Sent: Thursday, November 14, 2013 11:37 AM
To: Gallagher, Michael
Subject: FW: Introdutable out of state brokers draft

Mike-

This is for 3217. I'm ok with most of these changes.

- 1) Is that necessary?
- 2) Please make the requested change
- 3) Is this viable?
- 4) I figured the commission part might be tricky. There are a couple of changes there, go ahead and make those.
- 5) Fine by me, make the changes.
- 6) Is that necessary?

Let me know if you have questions.

Thanks,

Matt

From: Cori M. Lamont [<mailto:CoriL@wra.org>]
Sent: Thursday, November 14, 2013 11:16 AM
To: Rossetto, Matt; Larson, Tom
Subject: RE: Introdutable out of state brokers draft

Hi Matt,

We are getting very close. However, there are a few corrections we need to have made. I apologize for the depths of my comments but I know you're busy and hopefully I have been able to answer any of your questions as to why we are making certain suggestions.

- 1) Page 2. Upon closer review of the definition of out-of-state broker (page 2, line 2) and out-of-state salesperson (page 2, line 7), please remove the word nonresident. I know that the drafter included that language due to a reference from s. 452.11, Nonresident applicants and licensees. Our concern is that nonresident does not capture a person who is licensed in Illinois but is a Wisconsin resident. We believe that the use of nonresident in the definition of out-of-state broker may somehow lead this individual to believe that this newly created statute does not apply to them and therefore they can do whatever they want. Maybe I am over-thinking this one...
- 2) Page 3. Lines 13-15. Insert "accompanying prospective buyers or tenants to a property for sale or rent in this state," from P3 into this version or at least insert, "accompanying prospective tenants to a property for rent in this state." The drafter is correct in his notes - as long as the out-of-state broker is a party to a cooperative agreement they may act as broker in Wisconsin as long as the cooperative agreement allows such acts since the licensed broker has the ability to define what the out-of-state broker is or is not permitted to do in the transaction.

I would prefer to include both the buyers and the tenants in the reference; however I think we need to include tenants. Wis. Stat. 452.01(2)(bm) says that the paragraph does not apply to

property offered exclusively for rent. We not want to permit an out-of-state broker to have the ability to accompany a prospective tenant into the property without the cooperative agreement.

- 3) Page 4, lines 1-3. This language says that even with a cooperative agreement an out-of-state broker cannot market the property. This would appear to limit the licensed broker's ability to negotiate the terms of the cooperative agreement. I am not sure how often, if at all, this would occur but I would hate to take away the licensed broker's ability to negotiate the terms of the cooperative agreement. I understand that the drafter was attempting to tie in the 452.01(2) definition of broker, but I think we are getting into the weeds. I would remove this entire section since 452.01(2)(h) says you need a broker license to promote the property for sale, lease, etc.
- 4) Page 4, lines 4-5. As written this section says that an out-of-state broker cannot receive a commission even if it's subject to a cooperative agreement. The introduction of the section says that items 1-3 are prohibited by the out-of-state broker even if the out-of-state broker is a party to a cooperative agreement.

Again, it is our contention that this commission discussion be a stand-alone provision. We want to clarify that no one can pay a commission to an out-of-state broker unless the out-of-state broker has entered into the cooperative agreement.

The following is an example of how this language could look - I tweaked language previously provided in P3. I used transaction, a defined term in 452.01(10) and terminology from the definition of broker in 425.01(2). Lastly, I wanted to make sure the payment wasn't solely tied to the licensed broker because of title companies, attorneys who do closings, etc. and I didn't want to make it passive saying that the out-of-state broker cannot accept payment but rather it cannot be paid. Whoever is doing the closing cannot pay a commission to the out-of-state broker unless there is a cooperative agreement. The form is state-created and therefore the closing agent only needs to see that the agreement exists and pay the amount per the agreement.

No person may pay any fee or commission in connection with a transaction unless the out-of-state broker receives the fee, commission, money or other thing of value in accordance with the terms of the cooperative agreement.

- 5) Page 5 lines 1-5. The licensed broker is already required to retain transaction documents per Wis. Admin. Code REEB 15.04. Therefore this section needs to reflect the requirement on the out-of-state broker. In addition, it should reflect that this retention is a requirement for both sales (closings) and leases (completion).

~~A licensed broker~~ *The out-of-state broker shall maintain all documents it receives, maintains, or generates in connection with a transaction subject to the cooperative agreement, for at least 3 years after the date of closing ~~or~~ or completion of the transaction, or if no closing or completion occurs, 3 years after the date on which the parties execute the cooperative agreement.*

- 6) Consideration for the drafter: Page 3, line 14 after the word state insert "as defined in s. 452.01(2)." I know the drafter has wanted to keep a consistent tie to acts that define broker. I wondered if a statutory reference to the broker definition would further make that connection.

If you'd like to reach me today by phone my cell is the best number 262.309.2724. I am also happy to speak with you in person as well as I am around the Capitol all day.

Thank you for all of your help.

Cori

Cori M. Lamont
Director of Regulatory Affairs
Wisconsin REALTORS® Association
4801 Forest Run Road
Madison, WI 53704
tel: 608-241-2047 | fax: 608-241-5168 | www.wra.org
This is an advertisement from the WRA

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Information contained in this correspondence does not constitute legal advice and should not be relied upon as legal advice. A determination of one's legal rights can only be obtained after complete analysis of the law and its applicability to one's particular fact situation. Private legal counsel should be consulted if legal advice is needed.

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From: Rossetto, Matt [<mailto:Matt.Rossetto@legis.wisconsin.gov>]
Sent: Tuesday, November 12, 2013 4:02 PM
To: Cori M. Lamont; Larson, Tom
Subject: Introdutable out of state brokers draft

Hi guys-

Just got this from Mike at LRB. Take a look and make sure this is what we want. Thanks!

Matt Rossetto
Office of Representative Dean Knudson
30th Assembly District
(608) 266-1526



FN: 11/18 BY TWS, 11/19

State of Wisconsin
2013 - 2014 LEGISLATURE

THANKS!



LRB-3217/1

MPG:jld:rs

2013 BILL

1/2

Insert

✓ Powers of out-of-state brokers,

4

Regen

1 AN ACT *to create* 452.01 (5n), 452.01 (5p) and 452.137 of the statutes; relating
2 to: cooperation of Wisconsin licensed real estate brokers with out-of-state real
3 estate brokers, salespersons, and time-share salespersons, requiring the
4 exercise of rule-making authority, and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, the Real Estate Examining Board (board) licenses real estate brokers in Wisconsin. Generally, no person may engage in real estate practice in the state without a broker's license issued by the board. The board also licenses real estate salespersons and registers time-share salespersons. A real estate salesperson is any person, other than a broker or a time-share salesperson, who is employed by a broker. A time-share salesperson is a person employed by a broker exclusively to sell time shares.

This bill authorizes limited real estate practice in Wisconsin by an out-of-state broker who is not licensed by the board, and for the broker's out-of-state salesperson or time-share salesperson, if the out-of-state broker enters into a cooperative agreement with a broker licensed by the board. Under the bill, the board is required to develop, by rule, the form and content of the cooperative agreement. The cooperative agreement must establish the terms of cooperation between an out-of-state broker and a licensed broker, establish the terms of the out-of-state broker's compensation, and provide that all client funds received in connection with a real estate transaction subject to the cooperative agreement be deposited in a trust account maintained by the licensed broker.

BILL

in Wisconsin ✓

Under the bill, an out-of-state broker may not do any of the following, including as a party to a cooperative agreement:

1. Enter into a listing agreement concerning real estate located in Wisconsin.
2. For commission, money, or other thing of value, promote the sale, exchange, purchase, option, rental, or leasing of real estate in Wisconsin, including by posting signs.

3. For commission, money, or other thing of value, sell, exchange, rent, or lease or attempt to sell, exchange, rent, or lease real estate located in Wisconsin.

Under the bill, a broker licensed by the board who is a party to a cooperative agreement with an out-of-state broker, and any licensed salesperson or time-share salesperson of the licensed broker, may not act under the cooperative agreement on behalf of a broker who is not a party to the cooperative agreement. Additionally, unless the parties agree otherwise, the out-of-state broker must submit all documents it receives, maintains, or generates in connection with a real estate transaction subject to the cooperative agreement to the licensed broker. The licensed broker must keep those documents, and any documents the licensed broker itself receives, maintains, or generates in connection with the real-estate transaction, for at least three years after the date of closing on a transaction, or, if the transaction does not close, three years after the date on which the parties executed the cooperative agreement.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

all such
or is not completed

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 SECTION 1. 452.01 (5n) of the statutes is created to read:

2 452.01 (5n) "Out-of-state broker" means a nonresident who is not licensed
3 under this chapter and who is regularly and lawfully engaged in the real estate
4 brokerage business in another state, a territory or possession of the United States,
5 or a foreign country.

6 SECTION 2. 452.01 (5p) of the statutes is created to read:

7 452.01 (5p) "Out-of-state salesperson" means a nonresident who is not
8 licensed under this chapter and who is employed by an out-of-state broker.

person ✓

out-of-state

BILL

1 “Out-of-state salesperson” includes a time-share salesperson employed by an
2 out-of-state broker.

3 **SECTION 3.** 452.137 of the statutes is created to read:

4 **452.137 Cooperation with out-of-state brokers and salespersons. (1)**

5 DEFINITIONS. In this section:

6 (a) “Cooperative agreement” means the agreement established by the board
7 under sub. (4).

8 (b) “Licensed broker” means a broker who is licensed under this chapter.

9 (c) “Licensed salesperson” means a salesperson who is licensed under this
10 chapter.

11 (d) “Licensed time-share salesperson” means a time-share salesperson who is
12 licensed under this chapter.

13 **(2) OUT-OF-STATE BROKERS.** (a) Except as provided in par. (b), an out-of-state
14 broker may act as a broker in this state only if the out-of-state broker does all of the
15 following:

16 1. Enters into a cooperative agreement with a licensed broker and cooperates
17 with the licensed broker on all transactions subject to the cooperative agreement.

18 2. Submits to the licensed broker evidence that the out-of-state broker is
19 licensed in good standing to engage in real estate brokerage in a jurisdiction other
20 than this state.

21 (b) An out-of-state broker, including an out-of-state broker who is a party to
22 a cooperative agreement, may not do any of the following:

23 1. Enter into a listing agreement concerning real estate located in this state.

BILL

1 2. For commission, money, or other thing of value, [✓] promote ^{in this state} the sale, exchange,
2 purchase, option, rental, or leasing of real estate located in this state, including by
3 posting signs on the property.

4 ~~3. For commission, money, or other thing of value, sell, exchange, rent, or lease~~
5 ~~or attempt to sell, exchange, rent, or lease real estate located in this state.~~

6 (c) An out-of-state broker who is a party to a cooperative agreement with a
7 licensed broker, and any out-of-state salesperson of the out-of-state broker, shall
8 comply with the laws of this state, and the out-of-state broker shall file with the
9 board an irrevocable consent that actions may be commenced against the
10 out-of-state broker in the proper court of any county in this state in which a cause
11 of action arises or the plaintiff resides, by the service of any process or pleading
12 authorized by the laws of this state on the board or any duly authorized employee.
13 The consent shall stipulate and agree that such service is valid and binding as due
14 service upon the out-of-state broker in all courts in this state. The consent shall be
15 duly acknowledged and, if made by a corporation, shall be authenticated by the
16 corporate seal.

17 (d) A licensed broker who is a party to a cooperative agreement with an
18 out-of-state broker, and any licensed salesperson or licensed time-share
19 salesperson of the licensed broker, may not act under the cooperative agreement on
20 behalf of a broker who is not a party to the cooperative agreement.

21 ~~2.~~ (e) An out-of-state broker who is a party to a cooperative agreement with a
22 licensed broker shall deposit with the licensed broker copies of all documents the
23 out-of-state broker receives, maintains, or generates in connection with any
24 transaction subject to the cooperative agreement, unless the out-of-state broker and
25 licensed broker agree in writing that the out-of-state broker is not required to do so.

is required to maintain under subd. 1.

BILL

1 A licensed broker shall maintain all documents it receives under this paragraph, and
2 all other documents it receives, maintains, or generates in connection with a
3 transaction subject to the cooperative agreement, for at least 3 years after the date
4 of closing on the transaction, or, if no closing occurs, 3 years after the date on which
5 the parties execute the cooperative agreement.

6 (3) OUT-OF-STATE SALESPERSONS. An out-of-state salesperson may act as a
7 salesperson or time-share salesperson in this state only if all of the following
8 conditions are met:

9 (a) The out-of-state broker who employs the out-of-state salesperson satisfies
10 all of the applicable requirements under sub. (2).

11 (b) The out-of-state salesperson works under the direct supervision of the
12 out-of-state broker.

13 (c) The out-of-state salesperson submits evidence to the licensed broker that
14 the out-of-state salesperson is licensed in good standing or is otherwise authorized
15 to act as a salesperson or time-share salesperson in a jurisdiction other than this
16 state.

17 (d) In any transaction subject to the cooperative agreement, the out-of-state
18 salesperson represents only the out-of-state broker who is a party to the cooperative
19 agreement and with whom the out-of-state salesperson is employed.

20 (4) COOPERATIVE AGREEMENT. (a) The board shall, by rule, establish the form
21 and terms of the cooperative agreement.

22 (b) The cooperative agreement shall do at least all of the following:

23 1. Establish the terms of cooperation between the out-of state broker, any
24 out-of-state salesperson, and the licensed broker.

25 2. Establish the terms of the out-of-state broker's compensation.

BILL

3. Provide that all client funds, as defined in s. 452.13 (1) (a), that the out-of-state broker and licensed broker receive in connection with a transaction subject to the cooperative agreement shall be deposited in a trust account maintained by the licensed broker.

(5) PENALTY. (a) Subject to the rules promulgated under s. 440.03 (1), the board may conduct investigations and hold hearings to determine whether a person has violated this section or a rule promulgated under this section.

(b) Notwithstanding s. 452.17 (3), any person who violates this section or a rule promulgated under this section may be fined not more than \$5,000 for each violation.

SECTION 4. Effective date.

(1) This act takes effect on January 1, 2015.

(END)

**2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3217/2ins
MPG:jld:rs

1 INSERT 4-20

2 (e) 1. An out-of-state broker who is a party to a cooperative agreement with
3 a licensed broker shall maintain the originals or copies of all documents the
4 out-of-state broker receives, maintains, or generates in connection with any
5 transaction subject to the cooperative agreement, for at least 3[✓] years after the date
6 of closing or completion of the transaction, or, if no closing or completion occurs,[✓] 3
7 years after the date on which the parties execute the cooperative agreement.[✓]

8 END INSERT 4-20

9 INSERT 5-5

10 (f) No person may pay an out-of state-broker a commission, money, or other
11 thing of value for brokerage services unless the person knows that the out-of-state
12 broker is a party to a current cooperative agreement with a licensed broker.[✓]

13 (g) Notwithstanding s. 452.01 (2) (bm),[✓] no out-of-state broker may, for
14 commission, money, or other thing of value, show a property in this state that is
15 offered exclusively for rent unless that showing is authorized under a cooperative
16 agreement between the out-of-state broker and a licensed broker.[✓]

17 END INSERT 5-5

Fiscal Estimate - 2013 Session

☒ Original
 ☐ Updated
 ☐ Corrected
 ☐ Supplemental

LRB Number 13-3217/2	Introduction Number
Description Cooperation of Wisconsin licensed real estate brokers with out-of-state real estate brokers, salespersons, and time-share salespersons, powers of out-of-state brokers, requiring the exercise of rule-making authority, and providing a penalty	
Fiscal Effect State: <div style="display: flex; flex-wrap: wrap;"> <div style="width: 33%;"> <input type="checkbox"/> No State Fiscal Effect <input type="checkbox"/> Indeterminate <input type="checkbox"/> Increase Existing Appropriations <input type="checkbox"/> Decrease Existing Appropriations <input type="checkbox"/> Create New Appropriations </div> <div style="width: 33%;"> <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Decrease Existing Revenues </div> <div style="width: 33%;"> <input checked="" type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Decrease Costs </div> </div> Local: <div style="display: flex; flex-wrap: wrap;"> <div style="width: 33%;"> <input type="checkbox"/> No Local Government Costs <input type="checkbox"/> Indeterminate 1. <input type="checkbox"/> Increase Costs 3. <input type="checkbox"/> Increase Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 2. <input type="checkbox"/> Decrease Costs 4. <input type="checkbox"/> Decrease Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory </div> <div style="width: 33%;"> 5. Types of Local Government Units Affected <input type="checkbox"/> Towns <input type="checkbox"/> Village <input type="checkbox"/> Cities <input type="checkbox"/> Counties <input type="checkbox"/> Others <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts </div> </div>	
Fund Sources Affected Affected Ch. 20 Appropriations <input type="checkbox"/> GPR <input type="checkbox"/> FED <input checked="" type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS 20.165(1)(g)	
Agency/Prepared By DSPS/ Michelle Bea Beasley (608) 267-1811	<div style="display: flex; justify-content: space-between;"> <div> Authorized Signature Tom Engels (608) 266-8608 </div> <div> Date 11/25/2013 </div> </div>

FE is for old "1/2" version

→ copy to Rep. Knudson 11-25-2013

→ (Draft is now a "1/3")

Fiscal Estimate Narratives

DSPS 11/25/2013

LRB Number 13-3217/2	Introduction Number	Estimate Type Original
Description Cooperation of Wisconsin licensed real estate brokers with out-of-state real estate brokers, salespersons, and time-share salespersons, powers of out-of-state brokers, requiring the exercise of rule-making authority, and providing a penalty		

Assumptions Used in Arriving at Fiscal Estimate

According to the Division Administrators and the Budget Director, the proposed legislation will have a slight fiscal impact to DSPS. Costs may be incurred for reviewing law changes and making rule changes, updating information on the web-site, updating FAQs for customer service staff, and updating forms as needed.

Long-Range Fiscal Implications

Fiscal Estimate Worksheet - 2013 Session

Detailed Estimate of Annual Fiscal Effect

☒ Original
 ☐ Updated
 ☐ Corrected
 ☐ Supplemental

LRB Number 13-3217/2		Introduction Number	
Description Cooperation of Wisconsin licensed real estate brokers with out-of-state real estate brokers, salespersons, and time-share salespersons, powers of out-of-state brokers, requiring the exercise of rule-making authority, and providing a penalty			
I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect): According to the Division Administrators and the Budget Director, the proposed legislation will have a slight fiscal impact to DSPS. Costs may be incurred for reviewing law changes and making rule changes, updating information on the web-site, updating FAQs for customer service staff, and updating forms as needed.			
II. Annualized Costs:		Annualized Fiscal Impact on funds from:	
		Increased Costs	Decreased Costs
A. State Costs by Category			
	State Operations - Salaries and Fringes	\$4,900	\$
	(FTE Position Changes)		
	State Operations - Other Costs		
	Local Assistance		
	Aids to Individuals or Organizations		
	TOTAL State Costs by Category	\$4,900	\$
B. State Costs by Source of Funds			
	GPR		
	FED		
	PRO/PRS (Program Revenue)	4,900	
	SEG/SEG-S		
III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, ets.)			
		Increased Rev	Decreased Rev
	GPR Taxes	\$	\$
	GPR Earned		
	FED		
	PRO/PRS		
	SEG/SEG-S		
	TOTAL State Revenues	\$	\$
NET ANNUALIZED FISCAL IMPACT			
		<u>State</u>	<u>Local</u>
NET CHANGE IN COSTS		\$4,900	\$
NET CHANGE IN REVENUE		\$	\$
Agency/Prepared By		Authorized Signature	Date
DSPS/ Michelle Bea Beasley (608) 267-		Tom Engels (608) 266-8608	11/25/2013



In: 11/19 by Wed. 11/20
State of Wisconsin
2013 - 2014 LEGISLATURE
Thanks



LRB-32170
MPG:jld:jf

2013 BILL

13

✓

Regen

- 1 AN ACT *to create* 452.01 (5n), 452.01 (5p) and 452.137 of the statutes; **relating**
2 **to:** cooperation of Wisconsin licensed real estate brokers with out-of-state real
3 estate brokers, salespersons, and time-share salespersons, powers of
4 out-of-state brokers, requiring the exercise of rule-making authority, and
5 providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, the Real Estate Examining Board (board) licenses real estate brokers in Wisconsin. Generally, no person may engage in real estate practice in the state without a broker's license issued by the board. The board also licenses real estate salespersons and registers time-share salespersons. A real estate salesperson is any person, other than a broker or a time-share salesperson, who is employed by a broker. A time-share salesperson is a person employed by a broker exclusively to sell time shares.

This bill authorizes limited real estate practice in Wisconsin by an out-of-state broker who is not licensed by the board, and for the broker's out-of-state salesperson or time-share salesperson, if the out-of-state broker enters into a cooperative agreement with a broker licensed by the board. Under the bill, the board is required to develop, by rule, the form and content of the cooperative agreement. The cooperative agreement must establish the terms of cooperation between an out-of-state broker and a licensed broker, establish the terms of the out-of-state broker's compensation, and provide that all client funds received in connection with

BILL

a real estate transaction subject to the cooperative agreement be deposited in a trust account maintained by the licensed broker.

Under the bill, an out-of-state broker may not do any of the following, including as a party to a cooperative agreement:

1. Enter into a listing agreement concerning real estate located in Wisconsin.
2. For commission, money, or other thing of value, promote in Wisconsin the sale, exchange, purchase, option, rental, or leasing of real estate located in Wisconsin, including by posting signs.

Under the bill, a broker licensed by the board who is a party to a cooperative agreement with an out-of-state broker, and any licensed salesperson or time-share salesperson of the licensed broker, may not act under the cooperative agreement on behalf of a broker who is not a party to the cooperative agreement. Additionally, unless the parties agree otherwise, the out-of-state broker must submit all documents it receives, maintains, or generates in connection with a real estate transaction subject to the cooperative agreement to the licensed broker. The out-of-state broker must keep all such documents for at least three years after the date of closing or completion on a transaction, or, if the transaction does not close or is not completed, three years after the date on which the parties executed the cooperative agreement.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 452.01 (5n) of the statutes is created to read:

2 452.01 (5n) "Out-of-state broker" means a person who is not licensed under
3 this chapter and who is regularly and lawfully engaged in the real estate brokerage
4 business in another state, a territory or possession of the United States, or a foreign
5 country.

6 **SECTION 2.** 452.01 (5p) of the statutes is created to read:

7 452.01 (5p) "Out-of-state salesperson" means a nonresident ^{Person} who is not
8 licensed under this chapter and who is employed by an out-of-state broker.

BILL

1 "Out-of-state salesperson" includes a time-share salesperson employed by an
2 out-of-state broker.

3 **SECTION 3.** 452.137 of the statutes is created to read:

4 **452.137 Cooperation with out-of-state brokers and salespersons. (1)**

5 DEFINITIONS. In this section:

6 (a) "Cooperative agreement" means the agreement established by the board
7 under sub. (4).

8 (b) "Licensed broker" means a broker who is licensed under this chapter.

9 (c) "Licensed salesperson" means a salesperson who is licensed under this
10 chapter.

11 (d) "Licensed time-share salesperson" means a time-share salesperson who is
12 licensed under this chapter.

13 **(2) OUT-OF-STATE BROKERS.** (a) Except as provided in par. (b), an out-of-state
14 broker may act as a broker in this state only if the out-of-state broker does all of the
15 following:

16 1. Enters into a cooperative agreement with a licensed broker and cooperates
17 with the licensed broker on all transactions subject to the cooperative agreement.

18 2. Submits to the licensed broker evidence that the out-of-state broker is
19 licensed in good standing to engage in real estate brokerage in a jurisdiction other
20 than this state.

21 (b) An out-of-state broker, including an out-of-state broker who is a party to
22 a cooperative agreement, may not do any of the following:

23 1. Enter into a listing agreement concerning real estate located in this state.

BILL

1 2. For commission, money, or other thing of value, promote in this state the sale,
2 exchange, purchase, option, rental, or leasing of real estate located in this state,
3 including by posting signs on the property.

4 (c) An out-of-state broker who is a party to a cooperative agreement with a
5 licensed broker, and any out-of-state salesperson of the out-of-state broker, shall
6 comply with the laws of this state, and the out-of-state broker shall file with the
7 board an irrevocable consent that actions may be commenced against the
8 out-of-state broker in the proper court of any county in this state in which a cause
9 of action arises or the plaintiff resides, by the service of any process or pleading
10 authorized by the laws of this state on the board or any duly authorized employee.
11 The consent shall stipulate and agree that such service is valid and binding as due
12 service upon the out-of-state broker in all courts in this state. The consent shall be
13 duly acknowledged and, if made by a corporation, shall be authenticated by the
14 corporate seal.

15 (d) A licensed broker who is a party to a cooperative agreement with an
16 out-of-state broker, and any licensed salesperson or licensed time-share
17 salesperson of the licensed broker, may not act under the cooperative agreement on
18 behalf of a broker who is not a party to the cooperative agreement.

19 (e) 1. An out-of-state broker who is a party to a cooperative agreement with
20 a licensed broker shall maintain the originals or copies of all documents the
21 out-of-state broker receives, maintains, or generates in connection with any
22 transaction subject to the cooperative agreement, for at least 3 years after the date
23 of closing or completion of the transaction, or, if no closing or completion occurs, 3
24 years after the date on which the parties execute the cooperative agreement.

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1 2. An out-of-state broker who is a party to a cooperative agreement with a
2 licensed broker shall deposit with the licensed broker copies of all documents the
3 out-of-state broker is required to maintain under subd. 1., unless the out-of-state
4 broker and licensed broker agree in writing that the out-of-state broker is not
5 required to do so.

6 (f) No person may pay an out-of state-broker a commission, money, or other
7 thing of value for brokerage services unless the person knows that the out-of-state
8 broker [✓]is a party to a current cooperative agreement with a licensed broker.

9 (g) Notwithstanding s. 452.01 (2) (bm), no out-of-state broker may, for
10 commission, money, or other thing of value, show a property in this state that is
11 offered exclusively for rent unless that showing is authorized under a cooperative
12 agreement between the out-of-state broker and a licensed broker.

13 (3) OUT-OF-STATE SALESPERSONS. An out-of-state salesperson may act as a
14 salesperson or time-share salesperson in this state only if all of the following
15 conditions are met:

16 (a) The out-of-state broker who employs the out-of-state salesperson satisfies
17 all of the applicable requirements under sub. (2).

18 (b) The out-of-state salesperson works under the direct supervision of the
19 out-of-state broker.

20 (c) The out-of-state salesperson submits evidence to the licensed broker that
21 the out-of-state salesperson is licensed in good standing or is otherwise authorized
22 to act as a salesperson or time-share salesperson in a jurisdiction other than this
23 state.

BILL

1 (d) In any transaction subject to the cooperative agreement, the out-of-state
2 salesperson represents only the out-of-state broker who is a party to the cooperative
3 agreement and with whom the out-of-state salesperson is employed.

4 (4) COOPERATIVE AGREEMENT. (a) The board shall, by rule, establish the form
5 and terms of the cooperative agreement.

6 (b) The cooperative agreement shall do at least all of the following:

7 1. Establish the terms of cooperation between the out-of state broker, any
8 out-of-state salesperson, and the licensed broker.

9 2. Establish the terms of the out-of-state broker's compensation.

10 3. Provide that all client funds, as defined in s. 452.13 (1) (a), that the
11 out-of-state broker and licensed broker receive in connection with a transaction
12 subject to the cooperative agreement shall be deposited in a trust account
13 maintained by the licensed broker.

14 (5) PENALTY. (a) Subject to the rules promulgated under s. 440.03 (1), the board
15 may conduct investigations and hold hearings to determine whether a person has
16 violated this section or a rule promulgated under this section.

17 (b) Notwithstanding s. 452.17 (3), any person who violates this section or a rule
18 promulgated under this section may be fined not more than \$5,000 for each violation.

19 **SECTION 4. Effective date.**

20 (1) This act takes effect on January 1, 2015.

21 (END)

Rose, Stefanie

From: Rep.Knudson
Sent: Wednesday, November 20, 2013 2:00 PM
To: LRB.Legal
Subject: Draft Review: LRB -3217/3 Topic: Out-of-state real estate brokers

Please Jacket LRB -3217/3 for the ASSEMBLY.

Memo

To: Representative **Knudson**

(The Draft's

Requester)

Per your request ... the attached fiscal estimate was prepared for your un-introduced 2013 session draft.

LRB Number: LRB-3217

Version: " /3 "

Fiscal Estimate Prepared By: (agency abbr.) DSPS

If you have questions about the enclosed fiscal estimate, you may contact the state agency representative that prepared the fiscal estimate. If you disagree with the enclosed fiscal estimate, please contact the LRB drafter of your proposal to discuss your options under the fiscal estimate procedure.

Entered In Computer And Copy Sent To Requester Via E-Mail: 11 / 26 / 2013

*** * * * ***

To: LRB - Legal Section PA's

Subject: *Fiscal Estimate Received For An Un-introduced Draft*

- > If re-drafted ...** please insert this cover sheet and attached early fiscal estimate into the drafting file "guts" ... after the draft's old version (the version that this fiscal estimate was based on), and just before re-draft of the updated version.
- > If introduced ...** please make sure the attached fiscal estimate is for the **current version** ... write the draft's new introduction number below and give this packet to Mike (or Lori) to re-process the fiscal estimate (w/intro. number included).

THIS DRAFT WAS INTRODUCED AS: 2013 AB 605

Barman, Mike

From: Barman, Mike
Sent: Tuesday, November 26, 2013 1:02 PM
To: Rep. Knudson
Cc: Rossetto, Matt
Subject: LRB-3217/3 (un-introduced) (FE by DOR - attached - for your review)



FE-3217_DSPS.pdf

Drafter: MPG
Subject: Occupational Reg. - misc
Occupational Reg. - prof lic

Mike Barman (Lead Program Assistant)

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